

COOK COUNTY COMMISSION ON HUMAN RIGHTS

69 West Washington Street, Suite 3040
Chicago, Illinois 60602

Amy STERN, Complainant

v.

SULLIVAN & JAMES KITCHEN, BATH &
MORE, Respondent

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)
) Case No. 2010E042
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Entered: September 23, 2014
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ORDER

On September 29, 2010, Complainant Amy Stern (“Stern”) filed a complaint against her former employer, Respondent Sullivan & James Kitchen, Bath & More (“KB&M”), alleging that she was unlawfully terminated on the basis of her status as a pregnant woman in violation of the Cook County Human Rights Ordinance (“Human Rights Ordinance”). Stern claims that KB&M fired her on April 5, 2010, just two weeks after learning that she was pregnant for the third time in order to avoid the cost of her leave and added insurance. KB&M, on the other hand, produced documentation showing that they began searching for Stern’s replacement on or before March 3, 2010 – at least two weeks before Stern disclosed her pregnancy – and in reaction to a remodeling project that KB&M blamed Stern for losing in January 2010.

An investigation by the Cook County Commission on Human Rights (“Commission”) serves an important gatekeeping function for the agency’s enforcement of the Human Rights Ordinance. By design the threshold for filing a complaint under the Human Rights Ordinance is relatively low. The Commission, however, will only hold an administrative hearing in those cases where an investigation shows that the complainant has substantial evidence of a violation of the Human Rights Ordinance. In this way, the Commission can be as open a forum as possible while preserving scarce public resources to provide remedies to those victims of discrimination with a viable legal claim. The Commission has completed its investigation into Stern’s complaint but will not render an evidentiary determination on the basis of that investigation because, for reasons unrelated to the merits of her allegations of unlawful discrimination, Stern does not have a legally viable claim.

On the day she was fired – more than five months prior to filing her complaint with the Commission – Stern waived and released all claims against KB&M. Specifically, Stern bargained for approximately two-week’s post-termination salary and “agree[d], in exchange for such separation benefits, to waive and release *any and all claims* that she may have against Sullivan and James.” Separation Agreement and General Release (Apr. 5, 2010) (emphasis supplied). Given the breadth of this release, the Commission must presume that recovery under the Human Rights Ordinance was included among the waived causes of action. Further, Stern does not allege that she was coerced or tricked into signing the waiver. And the Commission’s investigation did not uncover any facts that call into question the agreement’s validity.

As the Commission explained in *Grigsby v. Office of the Cook County Public Defender*, “[o]nce a claim is released, it is extinguished and cannot form the basis a complaint before this Commission.” 2010E020, *2 (CCHRC Oct. 28, 2013). The Commission must dismiss a complaint where the outcome of its investigation is irrelevant. *See, e.g., id.* at *3 (dismissing complaint based on released claim for lack of substantial evidence); *Arnold v. Wheeling Park District*, 2010E009, *1 (CCHRC May 13, 2014) (same). No matter what the Commission’s evidentiary determination at the end of the investigation phases, the complainant will never be able to advance a legally viable claim under the Human Rights Ordinance at the hearing phase. Further, “where the facts have rendered further proceedings moot, the Commission retains the discretion to administratively close the matter.” *Finn v. Petsmart*, 2002E079, *1 (CCHRC Mar. 27, 2014) (dismissing a case as moot where the parties entered into a private settlement).

For the foregoing reasons, the Commission orders that complaint 2010E042 be DISMISSED as MOOT. In accordance with CCHR Pro. R. 480.100(A), either party may file a request for reconsideration with the Commission within 30 days of the date of this order.

September 23, 2014

By delegation:

A handwritten signature in black ink, appearing to read 'R. Hakim', with a stylized flourish at the end.

Ranjit Hakim
Executive Director of the Cook County
Commission on Human Rights